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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/879,446	06/11/2001	Stephen T. Mack	ES - 1003A	3556

7590

12/16/2004

Robert S. Kelly
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EXAMINER

KE, PENG

ART UNIT	PAPER NUMBER
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2174

DATE MAILED: 12/16/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/879,446	Applicant(s) MACK ET AL.	
	Examiner Peng Ke	Art Unit 2174	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 August 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 4, 5 and 20-35 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 4, 5 and 20-35 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This action is responsive to communications: Amendment, filed on 8/24/04.

This action is final.

Claims 4, 5, 20-35 are pending in this application. Claims 20, 28, and 33 are independent claims. In the Amendment, filed on 8/24/04, claim 5 was amended, claims 20-35 were added, and claim 1-3 and 6-19 were cancelled.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 4, 5, 20, 21, 24-29, 32, and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sparks et al., U.S. Patent No. 6,167,382 in view of Takakura et al., U.S. Patent No. 5,752,053.

As per claim 4, which is dependent on claim 20, Sparks and Takakura teach the system of claim 20 (see rejection above). Sparks further teaches a system according to claim 20 wherein said graphical Images downloadable from said server are in the form of a plurality of different categories of similar types of images with a number of different selections being provided in each category, and means for permitting the user to select desired images from one or more categories (see Sparks, column 5, lines 65 – 66, and column 6, lines 4 – 7).

As per claim 5, which is dependent on claim 4, Sparks and Takakura teach the system of claim 4 (see rejection above). Sparks further teaches a system according to claim 4 wherein one of said categories include various types of frames and borders for said composite image (see Sparks, column 7, lines 42 – 43; the examiner interprets templates as a category of content object, and it is inherent that they define the types of frames and borders for said composite image). However they fail to teach said graphical images including frame or border segments which can be incorporated into the composite image to form a border or frame about other graphical images or lines of text incorporated into the composite image. Official Notice is taken that graphical images including frame or border segments which can be incorporated into the composite image to form a border or frame about other graphical images or lines of text incorporated into the composite image is well know in the art, therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate the method in order to give definite shape to the image.

As per claim 20, Sparks et al. (“Sparks”) teaches an interactive system for permitting a user with a computer and display screen to design and generate, through a global computer information network connection with a server, a web page composite image including graphical images, and text, said system comprising:

means for permitting the user to create an outline of a shapeout of a predetermined two dimensional shape within a predetermined area on the display screen (see Sparks, column 5, lines 22 – 27, fig 46; the examiner interprets a shell as a predetermined two dimensional shape and size on the display screen),

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files for producing a plurality of graphical images and shapes stored at a server software storage remote from the user (see Sparks column 2, lines 50 – 59 and column 3, lines 13 – 18),

means for permitting the user through a browser to selectively download said files for producing graphical images and shapes and to incorporate selected graphical images into any selected position in said predetermined area on the display screen (see Sparks, column 2, lines 50 – 59, fig 46; it is inherent that the client uses a browser to select low resolution templates and images),

Sparks does not teach means for permitting the user to selectively download a file from producing a line of text into any selected position in said predetermined area in the display screen to selectively repeat the operation for subsequent line of text, said means for producing a line of text including means for permitting the user to originate the specific content of each line of text by typing it in on the display screen during the image creation process,

means for permitting the user to upload graphical images stored in the user's computer into said outline, and means for permitting the user to utilize a position indicating device with said user's computer to vary the sizes and relative positions of the text, shapes and graphical images within the outline of the computer screen, whereby a complete composite image within the outline can be created by the user and modified by the user with the entire image being continuously seen on the user's display screen during its creation.

Takakura et al. (“Takakura”) teaches means for permitting the user to selectively download a file from producing a line of text into any selected position in said

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predetermined area in the display screen to selectively repeat the operation for subsequent line of text, said means for producing a line of text including means for permitting the user to originate the specific content of each line of text by typing it in on the display screen during the image creation process (col. 11, lines 16-27)

means for permitting the user to upload graphical images stored in the user's computer into said outline (see Takakura, column 4, lines 63 – 65 and column 19, lines 58 – 61; it is inherent that file addresses of the forms link to file addresses on the user's computer because it is taught that the document data is stored in the hard disk unit of the user's computer), and means for permitting the user to utilize a position indicating device with said user's computer to vary the sizes and relative positions of the text, shapes and graphical images within the outline of the computer screen (see Takakura, column 4, lines 40 – 44 and column 22, lines 4 – 11), whereby a complete composite image within the outline can be created by the user and modified by the user with the entire image being continuously seen on the user's display screen during its creation (see Takakura, figure 3E, items 20 – 22 and column 6, lines 3 – 10). It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate the system of Takakura with the system of Sparks in order to allow forms to be input and edited to arbitrary positions on a document while observing the state of the print bound document.

As per claim 21, Sparks and Takakura teach a system according to claim 20. Sparks teaches means for permitting the user to download said files causes the framing representation of each file to be initially located in a particular orientation at a specific position in said predetermined area on the display screen so that later changes by the user in such position will be recorded by the user for transmittal back to the server (col. 22, lines

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7-68; It is inherent once the user has confirmed the modification to the template, the modification is upload back to the server).

As per claim 24, which is dependent on claim 20, Sparks and Takakura teach the system of claim 20 (see rejection above). Sparks further teaches a system according to claim 1 including means for permitting the user to upload graphical images into the files for producing graphical images at server so that the user can utilize his own graphical images in the composite image (see Sparks, figure 32; the examiner interprets the images of sandwiches displayed in the figure as photographic images).

As per claim 25, Sparks and Takaura teach the system 20. However they fail to teach permitting the user to selectively change the color with the selected shape. Official Notice is taken that permitting the user to selectively change the color with the selected shape is well know in the art, therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate the method in order to allow user to differential shapes by color.

As per claim 26, it is of the same scope as claim 5. (see rejection above)

As per claim 27, Sparks and Takaura teach the system 20. Takaura further teaches means for permitting the user to vary the relative proportions of the selectively created shape within said predetermined area on the display screen (abstract).

As per claim 28, it is rejected with the same rationale as claim 20. (see rejection above)

As per claim 29, it is of the same scope as claim 21. (see rejection above)

As per claim 32, it is of the same scope as claim 24. (see rejection above)

As per claim 33, it is rejected with the same rationale as claim 20 and 21. (see

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rejection above)

Claims 22, 30 and 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sparks et al., U.S. Patent No. 6,167,382 in view of Takakura et al., U.S. Patent No. 5,752,053 and further in view of Ravela et al., U.S. Patent Application Publication 5,987,456.

As per claim 22 Spark and Takaura teach the system according to claim 21. However, they fail to teach means for storing said text and graphical image component parts of the composite image and the locations thereof within said predetermined area of the display screen as modified by said user in a computer/web protocol which includes vector scaling programming.

Ravela et al. teaches a means for storing said text and graphical image component parts of the composite image and the locations thereof within said predetermined area of the display screen as modified by said user in a computer/web protocol which includes vector scaling programming (col. 7, lines 45-60).

It would have been obvious to an artisan at the time of the invention to include Ravela et al.'s teaching with method of Spark and Takaura in order to increase retrieval speed of downloading or uploading of a image.

As per claim 30, it is of the same scope as claim 22. (see rejection above)

As per claim 34, it is of the same scope as claim 22. (see rejection above)

Claims 23 and 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sparks et al., U.S. Patent No. 6,167,382 in view of Takakura et al., U.S. Patent No.

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5,752,053 and further in view of Blumberg et al., U.S. Patent Application Publication 2003/0140325.

As per claim 23, which is dependent on claim 20, Sparks and Takakura teach the system of claim 20 (see rejection above). Sparks and Takakura teach a system according to claim 20 including means for storing said text and shapes as modified by said user and said uploaded and selected graphical images at said server storage (see rejection above). Sparks and Takakura do not teach means for storing said text and shapes as modified by said user and said uploaded and selected graphical images in XML code. Blumberg et al. ("Blumberg") teaches storing graphical components in XML code (see Blumberg, paragraph 0180, lines 6 – 10). It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate the system of Blumberg with the system of Sparks and Takakura in order to allow for a standardized method of storing and delivering graphical objects through the internet.

As per claims 35, it is of similar scope to claim 23 and is rejected under the same rationale (see rejection above).

Claims 31 rejected under 35 U.S.C. 103(a) as being unpatentable over Sparks et al., U.S. Patent No. 6,167,382 in view of Takakura et al., U.S. Patent No. 5,752,053 as applied to claim 8 above, and further in view of Itoh et al., U.S. Patent No. 5,617,115.

As per claim 31, which is dependent on claim 28, Sparks and Takakura teach the system of claim 28 (see rejection above). Sparks and Takakura do not teach a system according to claim 8 wherein said high resolution image are 300 dpi or better low

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resolution image is less than or equal to 100 dpi. Itoh et al. ("Itoh") discloses wherein a high resolution image is 400 dpi a low resolution image is equal to 100 dpi (see Itoh, column 1, lines 26 – 29, column 1, line 65 – column 2, line 2). It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate the system of Itoh with the system of Sparks and Takakura in order to allow for a high quality print of the image to be created.

Response to Argument

Applicant's arguments filed on 12/06/04 have been fully considered but they are not persuasive.

Applicant arguments focused on the following points:

1) Takakura and Sparks both fail to teach allow^{ing} the user to upload the complete composite image back to the server. KK

Examiner disagrees.

1) Sparks teaches a production system that allow user to design, assemble, produce, and distribute print advertising over World Wide Web through a browser (col. 1, lines 65-col. 2, line 10, col. 2, lines 35-50). The file is modified indirectly through a web page (fig. 59, col. 2, lines 35-50). Because the user must first download the web page in order to view it, any modification that is done by the him is add^{ed} to the web page that is on his computer first. Only after he submits these changes back to the server, the changes are uploaded to web page on the server. KK

2) There is no motivation to combine creative manipulation of images and text with production system of Sparks.

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2) Sparks allows for “ changes and modification” to be made thereto without departing from the invention in its **BROADER** aspects (col. 22, lines 65-col.23 lines 4). And Takakura provides a motivation for combining creative manipulation of images (col. 2, lines 42-48)

3) Spark and Takakura fail to teach a method that allows user to selected an image or a text and move them to any position in said predetermined area.

3) Takakura allows the user to determine the positions and sizes of characters and figures (col. 5, lines 54-68).

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Peng Ke whose telephone number is (571) 272-4062. The examiner can normally be reached on M-Th and Alternate Fridays 8:30-5:00.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kristine L Kincaid can be reached on (571) 272-4063. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Peng Ke

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